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MONTANA LEGISLATIVE HISTORY

Chapter 270 19 87

Bill H _____ S 202 Original bill & history ✓ C

H. Committee on Business Labor		S. Committee on Business & Industry	
Hearing Date(s) 3/10	✓ C	Hearing Date(s) 1/28	✓ C
	C	1/30	✓ C
	C		C
	C		C
Date Out	C		

Did this bill originate in an interim committee? ___ Yes ✓ No

Committee _____ Report _____

Ch. No.	Senate Bill	House Bill	Sponsor	Title
262	43		Farrell	AN ACT CLARIFYING WHEN A $500 BOND IS REQUIRED FOR SPECIAL FUEL USERS; AND AMENDING SECTION 15-70-304, MCA. ..... Page 473
263	68		Gage	AN ACT ALLOWING SCHOOL DISTRICTS TO USE CLEARING ACCOUNTS AND ESTABLISHING STANDARDS FOR THE USE OF SUCH ACCOUNTS. ..... Page 475
264	83		Mazurek	AN ACT MAKING REPORTS AND PUBLICATIONS OF THE MONTANA ECONOMIC DEVELOPMENT BOARD DUE ON DECEMBER 31 OF EACH YEAR; ELIMINATING THE REQUIREMENT FOR A REPORT TO THE LEGISLATURE ON POTENTIAL USES OF THE COAL TAX TRUST; AMENDING SECTION 17-6-322, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ..... Page 475
265	85		Gage	AN ACT PROVIDING A STATUTORY APPROPRIATION FOR FUNDS RECEIVED FROM BONDS FOR THE PROPER PLUGGING OF ABANDONED OR DRY WELLS; DELETING THE REQUIREMENT FOR THE FILING OF STATEMENTS OF CRUDE PETROLEUM AND NATURAL GAS PRODUCED AND MARKETED IN THE STATE WITH THE BOARD OF OIL AND GAS CONSERVATION; DELETING THE REQUIREMENT FOR THE DEPARTMENT OF ADMINISTRATION'S APPROVAL OF THE EXPENDITURE OF FUNDS BY THE BOARD OF OIL AND GAS CONSERVATION; AMENDING SECTIONS 17-7-502, 82-11-132, AND 82-11-135, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ..... Page 476
266	138		Hager	AN ACT TO ESTABLISH CRITERIA AND PROCEDURES FOR ASSESSING PROPOSALS FOR NEW OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS; PROVIDING FOR CONSOLIDATION OF EXISTING BOARDS; ASSIGNING RESPONSIBILITY FOR THESE FUNCTIONS TO THE LEGISLATIVE AUDIT COMMITTEE; PROVIDING FOR AN APPLICATION FEE; AND PROVIDING A RETROACTIVE APPLICABILITY DATE. ..... Page 479
267	144		Blaylock	AN ACT TO ALLOW THE DEPARTMENT OF INSTITUTIONS TO PETITION A SENTENCING COURT FOR REVIEW OF A SENTENCE OF A MENTALLY ILL OFFENDER; CHANGING WHAT MUST BE CERTIFIED BEFORE A PETITION MAY BE FILED; AND AMENDING SECTION 46-14-312, MCA. ..... Page 484
268	180		Harding	AN ACT PROVIDING AN EXEMPTION FROM SUBDIVISION SURVEY REQUIREMENTS IN CERTAIN CIRCUMSTANCES FOR PURPOSES OF RECORDING INSTRUMENTS RELATING TO LAND; AMENDING SECTION 76-3-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ..... Page 485
269	186		B. Williams	AN ACT TO PROVIDE FOR THE REGISTRATION OF AN INVESTMENT ADVISER REPRESENTATIVE; AND AMENDING SECTIONS 30-10-103, 30-10-110, 30-10-201, AND 30-10-209, MCA. ..... Page 486
270	202		Weeding	AN ACT TO AMEND THE SECURITIES LAWS TO SIMPLIFY AND CLARIFY THEIR ENFORCEMENT WITH RESPECT TO COMMODITY INVESTMENT CONTRACTS AND COMMODITY OPTIONS; AND AMENDING SECTIONS 30-10-103 AND 30-10-105, MCA. ..... Page 495
271	220		Yellowtail	AN ACT REVISING FEES OF THE CLERK OF DISTRICT COURT FOR CERTAIN CHARGES; AMENDING SECTION 25-1-201, MCA; AND PROVIDING AN EFFECTIVE DATE. ..... Page 502
272	247		Meyer	AN ACT TO GENERALLY REVISE THE LAWS RELATING TO SECURITIES; AMENDING SECTIONS 30-10-103 THROUGH 30-10-105, 30-10-201, 30-10-204, 30-10-206, 30-10-207, 30-10-209, 30-10-301, 30-10-304, 30-10-307, AND 90-8-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ..... Page 504
273	263		B. Williams	AN ACT TO REMOVE THE REQUIREMENT FOR HOLDING PUBLIC HEARINGS ON PROJECTS FINANCED UNDER THE MONTANA ECONOMIC DEVELOPMENT BOND ACT OF 1983 IF THE INTEREST ON BONDS FINANCING THE PROJECT IS SUBJECT TO FEDERAL INCOME TAXES; AMENDING SECTIONS 17-5-1526 AND 17-5-1527, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. ..... Page 525

1/23 INTRODUCED
1/23 REFERRED TO BUSINESS & INDUSTRY
1/30 HEARING
2/16 TABLED IN COMMITTEE

SB 202 INTRODUCED BY WEEDING
COMMODITIES INVESTMENTS REGULATED BY SECURITIES COMMISSIONER
BY REQUEST OF STATE AUDITOR AND SECURITIES COMMISSIONER

1/23 INTRODUCED
1/23 REFERRED TO BUSINESS & INDUSTRY
1/28 FISCAL NOTE REQUESTED
1/28 HEARING
1/30 FISCAL NOTE RECEIVED
1/31 COMMITTEE REPORT--BILL PASSED
2/04 2ND READING PASSED 50 0
2/06 3RD READING PASSED 49 0

TRANSMITTED TO HOUSE
2/11 REFERRED TO BUSINESS & LABOR
3/10 HEARING
3/10 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/13 2ND READING CONCURRED 93 2
3/14 3RD READING CONCURRED 93 1

RETURNED TO SENATE WITH AMENDMENTS
3/20 2ND READING AMENDMENTS CONCURRED 49 0
3/21 3RD READING AMENDMENTS CONCURRED 41 0
3/24 SIGNED BY PRESIDENT
3/25 SIGNED BY SPEAKER

3/25 TRANSMITTED TO GOVERNOR
3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 270 EFFECTIVE DATE: 10/01/87

SB 203 INTRODUCED BY ECK, HAGER, KEENAN, ET AL.
ALLOW CITY TO ESTABLISH LOCAL OPTION FUEL TAX AND EXPAND FUND DISTRIBUTION

1/23 INTRODUCED
1/23 REFERRED TO LOCAL GOVERNMENT
1/29 HEARING
2/03 TABLED IN COMMITTEE

SB 204 INTRODUCED BY THAYER, POULSEN, CAMPBELL, ET AL.
PROVIDE COUNTY TREASURERS $3 FEE FOR PROCESSING CENTENNIAL LICENSE PLATES

1/24 INTRODUCED
1/24 REFERRED TO LOCAL GOVERNMENT
1/24 SPONSORS ADDED
1/24 FISCAL NOTE REQUESTED
2/03 HEARING
2/05 FISCAL NOTE RECEIVED
2/06 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/10 2ND READING PASSED 50 0
2/12 3RD READING PASSED 50 0

TRANSMITTED TO HOUSE
2/18 REFERRED TO LOCAL GOVERNMENT
3/04 HEARING

SENATE BILL NO. 202

INTRODUCED BY WEEDING

BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER

IN THE SENATE

JANUARY 23, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
JANUARY 31, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 2, 1987	PRINTING REPORT.
FEBRUARY 4, 1987	SECOND READING, DO PASS.
FEBRUARY 5, 1987	ENGROSSING REPORT.
FEBRUARY 6, 1987	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
MARCH 10, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 13, 1987	SECOND READING, CONCURRED IN.
MARCH 14, 1987	THIRD READING, CONCURRED IN. AYES, 93; NOES, 1.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 20, 1987	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 21, 1987

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

SENATE BILL NO. 202

INTRODUCED BY Weeding

BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE SECURITIES LAWS TO SIMPLIFY AND CLARIFY THEIR ENFORCEMENT WITH RESPECT TO COMMODITY INVESTMENT CONTRACTS AND COMMODITY OPTIONS; AND AMENDING SECTIONS 30-10-103 AND 30-10-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-10-103, MCA, is amended to read:

"30-10-103. Definitions. When used in parts 1 through 3 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Commissioner" means securities commissioner of this state.

(2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. A partner, officer, or director of a broker-dealer or issuer is a salesman only if he otherwise comes within this definition. "Salesman" does not include an individual who represents an issuer in:

(a) effecting a transaction in a security exempted by subsections (1), (2), (3), (9), (10), (11), or (12) of 30-10-104;

(b) effecting transactions exempted by 30-10-105; or

(c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) a salesman, issuer, bank, savings institution, trust company, or insurance company; or

(b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustee.

(4) "Registered broker-dealer" means a broker-dealer registered pursuant to 30-10-201.

(5) (a) "Commodity" means, except as otherwise specified by rule or order of the commissioner:

LC 1048/01

INTRODUCED BILL
SB 202

(i) any agricultural, grain, or livestock product or byproduct;

(ii) any metal or mineral, including a precious metal, or any gem or gem stone, whether characterized as precious, semiprecious, or otherwise;

(iii) any fuel, whether liquid, gaseous, or otherwise;

(iv) foreign currency; and

(v) all other goods, articles, products, or items of any kind.

(b) Commodity does not include:

(i) a numismatic coin with a fair market value at least 15% higher than the value of the metal it contains;

(ii) real property or any timber, agricultural, or livestock product grown or raised on real property and offered and sold by the owner or lessee of such real property; or

(iii) any work of art offered or sold by an art dealer at public auction or offered or sold through a private sale by the owner.

(6) "Commodity Exchange Act" means the federal statute of that name as amended on the effective date of this subsection.

(7) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the Commodity Exchange Act.

(8) (a) "Commodity investment contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. Any commodity investment contract offered or sold, in the absence of evidence to the contrary, is presumed to be offered or sold for speculation or investment purposes.

(b) A commodity investment contract does not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(9) (a) "Commodity option" means any account, agreement, or contract giving a party to the account, agreement, or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance

guaranty, decline guaranty, or otherwise.

(b) The term does not include an option traded on a national securities exchange registered with the U.S. securities and exchange commission.

~~(5)~~(10) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

~~(6)~~(11) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) a bank, savings institution, trust company, or insurance company;

(b) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) a broker-dealer;

(d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) a person whose advice, analyses, or reports relate only to securities exempted by 30-10-104(1);

(f) a person who has no place of business in this state if his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or

(g) such other persons not within the intent of this subsection ~~(5)~~ (11) as the commissioner may by rule or order designate.

~~(7)~~(12) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

~~(8)~~(13) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

~~(9)~~(14) "Person", for the purpose of parts 1 through 3 of this chapter, means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(15) "Precious metal" means the following, in coin, bullion, or other form:

(a) silver;

(b) gold;

(c) platinum;

(d) palladium;

(e) copper; and

(f) such other items as the commissioner may by rule or order specify.

~~(10)~~(16) (a) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of a security or interest in a security for value.

(b) "Offer" or "offer to sell" includes every attempt or offer to dispose of or solicitation of an offer to buy a security or interest in a security for value.

(c) Any security given or delivered with or as a bonus on account of any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A

purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

~~(11)~~(17) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after July 1, 1961.

~~(12)~~(18) "Security" means any note; stock; treasury stock; bond; commodity investment contract; commodity option; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable shares; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a security or any certificate of interest or participation in, temporary or

interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a sum of money either in a lump sum or periodically for life or some other specified period.

~~(13)~~(19) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico."

Section 2. Section 30-10-105, MCA, is amended to read:

"30-10-105. Exempt transactions. Except as in this section expressly provided, 30-10-201 through 30-10-207 shall not apply to any of the following transactions:

(1) any nonissuer isolated transaction, whether effected through a broker-dealer or not;

(2) (a) any nonissuer distribution of an outstanding security by a broker-dealer registered pursuant to 30-10-201 if:

(i) quotations for the securities to be offered or sold (or the securities issuable upon exercise of any warrant or right to purchase or subscribe to such securities) are reported by the automated quotations system operated by the national association of securities dealers, inc., (NASDAQ) or by any other quotation system approved by

the commissioner by rule; or

(ii) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the 3 preceding fiscal years, or during the existence of the issuer and any predecessors if less than 3 years, in the payment of principal, interest, or dividends on the security.

(b) The commissioner may by order deny or revoke the exemption specified in subsection (2)(a) with respect to a specific security. Upon the entry of such an order, the commissioner shall promptly notify all registered broker-dealers that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated parts 1 through 3 of this chapter by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did

not know and in the exercise of reasonable care could not have known of the order.

(3) any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the commissioner may require that the customer acknowledge upon a specified form that the sale was unsolicited and that a signed copy of each form be preserved by the broker-dealer for a specified period;

(4) any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters;

(5) any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator in the performance of his official duties as such;

(6) any transaction executed by a bona fide pledgee without any purpose of evading parts 1 through 3 of this chapter;

(7) any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(8) (a) any transaction pursuant to an offer made in this state directed by the offeror to not more than 10 persons (other than those designated in subsection (7)) during any period of 12 consecutive months, if:

(i) the seller reasonably believes that all the buyers are purchasing for investment; and

(ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer; provided, however, that a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended.

(b) For the purpose of the exemption provided for in subsection (8)(a), an offer to sell is made in this state, whether or not the offeror or any of the offerees is then present in this state, if the offer either originates from this state or is directed by the offeror to this state and received at the place to which it is directed (or at any post office in this state in the case of a mailed offer).

(9) any offer or sale of a preorganization certificate or subscription if:

(a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber;

(b) the number of subscribers does not exceed 10; and

(c) no payment is made by any subscriber;

(10) any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if:

(a) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state; or

(b) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow either (a) or (b) of this subsection;

(11) any offer (but not a sale) of a security for which registration statements have been filed under both parts 1 through 3 of this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either law;

(12) any offer (but not a sale) of a security for which a registration statement has been filed under parts 1 through 3 of this chapter and the commissioner in his discretion does not disallow the offer in writing within 10 days of such filing;

(13) the issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock;

(14) any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(15) any transaction in compliance with such rules as the commissioner in his discretion may adopt to serve the purposes of 30-10-102; ~~or~~

(16) any transaction pursuant to the Montana Capital Company Act, Title 90, chapter 8, provided that a Montana capital company must first file all disclosure documents, along with a consent to service of process, with the state securities commissioner. The commissioner may not charge a fee for the filing or deposit.

(17) the sale of a commodity investment contract traded on a commodities exchange recognized by the commissioner at the time of sale;

(18) transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under

the Commodity Exchange Act;

(19) a transaction that:

(a) involves the purchase of one or more precious metals; and

(b) requires, and under which the purchaser receives within 7 calendar days after payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased. For the purposes of this subsection, physical delivery is considered to have occurred if, within the 7-day period, the quantity of precious metals, whether in specifically segregated or fungible bulk, purchased by such payment is delivered into the possession of a depository (other than the seller) that:

(i) (A) is a financial institution (meaning a bank, savings institution, or trust company organized under or supervised pursuant to the laws of the United States or of this state);

(B) is a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission; or

(C) is a storage facility licensed by the United States or any agency of the United States; and

(ii) issues, and the purchaser receives, a certificate, document of title, confirmation, or other instrument

evidencing that such quantity of precious metals has been delivered to the depository and is being and will continue to be held on the purchaser's behalf, free and clear of all liens and encumbrances other than:

(A) liens of the purchaser;

(B) tax liens;

(C) liens agreed to by the purchaser; or

(D) liens of the depository for fees and expenses that previously have been disclosed to the purchaser.

(20) a transaction involving a commodity investment contract solely between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject to the contract or any byproduct of the commodity."

NEW SECTION. Section 3. Extension of authority. Any existing authority of the securities commissioner to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

MONTANA STATE SENATE

BUSINESS AND INDUSTRY COMMITTEE

50TH LEGISLATURE

COMMITTEE MEMBERS:

Senator Allen C. Kolstad, Chairman
Senator Ted Neuman, Vice Chairman
Senator Paul Boylan
Senator Delwyn Gage*
Senator Tom Hager
Senator Harry H. McLane
Senator Darryl Meyer
Senator Gene Thayer
Senator Mike Walker
Senator Cecil Weeding
Senator Bob Williams

STAFF ATTORNEY: Mary McCue

COMMITTEE SECRETARY: Carolyn A. Linden

*Sen. Gage was unable to attend most of the meetings due to a conflict with other committees. He was replaced by Sen. Hager.

BOOK: ONE OF THREE

INCLUSIVE DATES: 1/6/87 THROUGH 2/6/87

CHAIRMAN--SEN. ALLEN C. KOLSTAD
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-CAROLYN LINDEN

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0130 MANNING, RICHARD E.	1/17	1/23	1/23/87; 1/30/87 ALLOW PARIMUTUEL BETTING ON NATIONAL RACES SUCH AS KENTUCKY DERBY	PASS AS AMENDED 1/30/87		1/30/87
SB0140 MAZUREK, JOSEPH P.	1/19	1/23	1/23/87; 1/27/87; 1/29/87 INCREASING DEPOSIT IN LOAN LOSS RESERVE FUND BY ECONOMIC DEVELOPMENT BOARD	DO PASS 1/29/87		1/29/87
SB0156 MANNING, RICHARD E.	1/20	1/27	1/27/87 ALLOW LOCAL GOV. TO LICENSE SPORTS POOL; UP LIMITS $5 CHANCE, $500 PER POOL	PASS AS AMENDED 1/27/87		1/27/87
SB0163 BOYLAN, PAUL F.	1/21	2/03	2/3/87; 2/11/87 LIMITING ASSETS OF MERGED BANKS	PASS AS AMENDED 2/11/87		2/11/87
SB0182 MEYER, DARRYL	1/21	1/28	1/28/87 CORPORATE STOCK ESCROW AS CONDITION OF SECURITIES REGISTRATION	DO PASS 1/28/87		1/28/87
SB0186 WILLIAMS, BOB	1/21	1/28	1/28/87 REGISTRATION OF INVESTMENT ADVISOR REPRESENTATIVES	DO PASS 1/28/87		1/28/87
SB0188 WALKER, MIKE	1/21	1/28	1/28/87 DISCLOSURE OF ELECTRONIC FUNDS TRANSACTION PURSUANT TO SUBPOENA	PASS AS AMENDED 1/28/87	JUDICIARY	1/28/87
SB0198 THAYER, GENE	1/23	2/03	2/3/87; 2/11/87 MERGING BANKS, BRANCHING BY INDEPENDENT BANKS	PASS AS AMENDED 2/11/87		2/11/87
SB0201 STORY, PETER R.	1/23	1/30	1/30/87; 2/16/87 DEFINING "PREMISES" TO INCLUDE MORE THAN ONE BUILDING	TABLED 2/16/87		TABLED 2/16/87
SB0202 WEEDING, CECIL	1/23	1/28	1/28/87; 1/30/87 COMMODITIES INVESTMENTS REGULATED BY SECURITIES COMMISSIONER	DO PASS 1/30/87		1/30/87
SB0205 HALLIGAN, MIKE	1/24	2/04	2/4/87; 2/11/87; 2/16/87 2/17/87; 2/20/87 VOUCHER SYSTEM FOR SRS PAYMENT FOR PRESCRIPTION MEDICATION	TABLED 2/20/87		TABLED 2/20/87

Senator Williams closed by emphasizing that the bill is necessary to give the people protection and proper guidance. He thank Ms. Schulke for her help.

Senator Thayer expressed concern because one might pay the small fee in order to get that status in the bill. Ms. Schulke said there is an exam and other requirements to prevent that.

EXECUTIVE ACTION ON SENATE BILL 186: Senator Williams moved the bill DO PASS. The motion was seconded by Senator Meyer, and PASSED BY MAJORITY with Senator Neuman voting NO.

CONSIDERATION OF SENATE BILL 202: Senator Cecil Weeding, District 14, Jordon, stated that the bill was requested by the State Auditor and Securities Commissioner and deals with commodities investments. He said it would bring them under the jurisdiction of the Securities Act of Montana and would be subject to rules and regulations. Section 1 in Exhibit 5, provides a definition of "commodity," and he went through the exhibit with the committee. (EXHIBIT 5)

PROPONENTS: Kim Schulke added that many times the investment contracts are regulated by the commissioners but in order to enforce the Securities Act against securities law violators, it must be proven that commodity investment fits the definition of security in the form of investment contract. Detailed elements of an investment contract are often hard to prove and often they refuse to abide by subpoena. Firms that sell commodities illegally in Montana without benefit of registration use high pressure sales and long distance solicitation. Most commodities sold this way do not exist. She further stated the bill would let a legitimate commodities company operate without further state regulation and enhances the integrity of the commodities market by helping to eliminate the drain of investment funds. She explained how the bill was derived as written in Exhibit 5, page 3. The bill will help the Securities Department enforce the Securities Act against those firms and it provides exemptions from registration for federally regulated people.

OPPONENTS: None

QUESTIONS FROM THE COMMITTEE: Senator Thayer asked about penalties. Ms. Schulke said penalties would be explained in the Securities Act. Senator Thayer asked for and found out there is no list of violators but there is some jurisdiction over them. Senator Thayer said that in 1973, the federal government pre-empted all the states from any activity in commodities and prior to that, legitimate commodities were referred to as those created on exchanges with regulations. The federal government had relaxed their regulations under the

commodities exchange act to give an open season to securities people because actually a commodity is a security and there is still an argument whether a commodity is a security. It is important that commodity be added into the definition of a security. Senator Thayer asked if the securities department could be called to verify a company. Mr. Taylor said all the firms are registered in the National Futures Association. Senator Thayer asked if there would be a way to notify the general public. He was informed there would be sufficient funds and also a newsletter is sent to the brokers.

A few minor remarks were made by Senator Weeding.

OTHER BUSINESS: Chairman Kolstad asked if there was any other business. Mary McCue, staff researcher, referred to House Bill 188 and suggested that after the word "subpoena" on line 7 in statement of intent "by a court or criminal justice agency" should be added so that the new concept is in the title. Ms. Schulke agreed and Senator Neuman moved to RECONSIDER HOUSE BILL 188. The vote was UNANIMOUS. Senator Meyer moved to include the amendment mentioned above. The motion was seconded by Senator Boylan with no discussion. Senator Thayer moved HB 188 DO PASS, AS AMENDED, seconded by Senator Meyer and PASSED BY MAJORITY with Senator Neuman voting NO.

ADJOURNMENT: There being no further business to come before the committee this day, Chairman Kolstad advised the members the next meeting is scheduled for January 29, 1987. The committee adjourned at 11:45 a.m.

Allen C. Kolstad

ALLEN C. KOLSTAD, Chairman

cl/emw

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 1-28-87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	X		
PAUL BOYLAN	X		
DELWYN GAGE			X
HARRY H. McLANE	X		
DARRYL MEYER	X		
TED NEUMAN	X		
GENE THAYER	X		
MIKE WALKER	X		
CECIL WEEDING	X		
BOB WILLIAMS	X		

Each day attach to minutes.

DATE 1/28/87

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jim Schultz	State Auditor & Securities Comm.	SB182, 184, 185, 202	✓	
Dick Tucker				
John Cadby				

(Please leave prepared statement with Secretary)

NAME: J. Kim Schulke DATE: 1-28-87

ADDRESS: Mitchell Building, Room 274

PHONE: 444-5236

REPRESENTING WHOM? State Auditor & Commissioner of Securities

APPEARING ON WHICH PROPOSAL: SB182, 186, 188, 202

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

SENATE BUSINESS & INDUS
EXHIBIT NO. _____
DATE _____
BILL NO. _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Kim Schulke
Deputy Securities Commissioner
444-5236

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 1/28/87
BILL NO. SB202

SB 202 - Commodities investments regulated by securities commissioner.

Requested by State Auditor and Commissioner of Securities Andrea "Andy" Bennett

SECTION BY SECTION REVIEW

Section 1. Amendment to 30-10-103, MCA.

This bill amends 30-10-103, MCA, which is the definitional section of the Securities Act of Montana. New subsection (5)(a) contains a definition of "commodity." This is a very broad definition, which is qualified considerably by subsection (5)(b). Subsection (5)(b)(ii) excludes from the definition, real property or timber, agricultural, or livestock product grown or raised on real property and offered and sold by the owner or lessee of such real property. This would prevent the Securities Commissioner from exercising jurisdiction over the farmer or logger.

New subsection (6) defines the Commodity Exchange Act, which is the federal statute requiring registration of commodities dealers. Exemptions from state registration are provided in 30-10-105, for transactions registered under the federal system.

New subsection (7) defines the Commodity Futures Trading Commission, which is the federal agency responsible for the regulation of the commodities industry.

New subsection (8)(a) defines "commodity investment contract" as an agreement for the purchase of a commodity, primarily for investment purposes and not for use or consumption by the purchaser.

New subsection (8)(b) states that a commodity investment contract does not include the situation where actual delivery of the commodity is received within 28 calendar days after the payment of all or part of the purchase price.

New subsection 9(a) defines "commodity option" which means any agreement giving a party the right but not the obligation to purchase or sell commodities. Subsection 9(b) excludes options traded on a national securities exchange from the jurisdiction of the Securities Commissioner.

New subsection (15) defines "precious metal", which is included in the definition of "commodity."

Exhibit #5
1/28/87

New subsection (18) sets forth the definition of "security," which is the same as always, except that the terms "commodity investment contract," and "commodity option" are included.

Section 2. Amendment to 30-10-105, MCA.

Section 30-10-105 provides exemptions for registration under the Securities Act of Montana for certain transactions.

New subsection (17) provides an exemption for commodity investment contracts traded on a commodities exchange recognized by the Securities Commissioner. The oldest established commodities exchange is the Chicago Board of Trade.

New subsection (18) provides an exemption for transactions within the exclusive jurisdiction of the commodity futures trading commission.

New subsection (19) provides an exemption for transactions involving the purchase of precious metals which requires the purchaser to receive physical delivery of the metals within 7 days after payment of all or part of the purchase price. Such physical delivery must be made to (1) a financial institution, (2) a warehousing depository whose receipts are recognized on a contract market designed by the Commodity futures Trading Commission, or (3) a federally licensed storage facility. Such depository must then issue a confirmation stating that the metals have been delivered free of liens other than those liens allowed.

New subsection (20) provides an exemption for commodity investment contracts entered into between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject to the contract, or any byproduct of the commodity.

Section 3. Extension of authority.

This section provides that the Securities Commissioner may make rules on the subject of this bill.

JUSTIFICATION

The Securities Act of Montana governs the offer and sale of securities in our state. This bill would include commodity investment contracts and commodity options within the definition of "security." All of the provisions of the Securities Act, including the registration and enforcement provisions, would then apply to commodity investment contracts and commodity options.

This bill begins by defining "commodity" in very broad terms. It then narrows that definition considerably by excluding real property or any timber, agricultural or livestock product grown or raised on real property and offered and sold by the farmer or logger.

"Commodity investment contract" and "commodity option" are then defined so that it is clear that the jurisdiction of the Securities Commissioner will only apply when these contracts are entered into primarily for speculation or investment purposes.

The bill provides several exemptions for commodity investment contracts traded on recognized commodities exchanges, transactions already governed by the federal government, certain contracts for the purchase of precious metals, and transactions between persons engaged in producing, processing, using commercially or handling as commodities as merchants.

This bill was taken in part from the Model State Commodity Code, which has been approved by the North American Securities Administrators Association. This Association is made up of the Securities Commissioners of all 50 states, and many Canadian provinces. The particular provisions of this bill were borrowed from the Arizona statutes. Other states have also adopted the Model State Commodity Code.

This legislation seeks to protect the public from operators who offer and sell so-called commodity investments to the unwary investor at a loss of thousands of dollars per year in Montana. Often, the innocent have been bilked out of their life savings by commodity scam artists who entice their victims by promising huge profits in precious metals and other commodities. Additionally, this bill is designed to complement the federal commodity laws by permitting the public to trade or invest in legitimate commodity instruments under the federal Commodity Exchange Act and under the specific terms of the Securities Act of Montana.

While commodity investment contracts are already within the securities commissioner's regulatory authority, the definitions included within this bill will make it easier to enforce the securities laws against those who offer and sell commodity investment contracts in this state.

NAME: R. G. "Dick" Tucker DATE: 1-28-87

ADDRESS: 156 FAIRWAY DR.

PHONE: 442-6302

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: SB - 182, 186, 188, 202

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: As the Deputy Securities Comm. for 17 years - now retired - I support each of the above bills.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

recognized programs, and those people are not required to repeat the state's training program. Sen. Boylan asked if they licensed them, and Mr. Bain answered, "Yes." Chairman Kolstad stated that the committee would not take further action on this bill until next week in an attempt to better understand all proposed amendments and exactly what is attempting to be accomplished by HB 68.

EXECUTIVE ACTION ON SENATE BILL NO. 79: Chairman Kolstad asked Ms. McCue to explain the status of this bill. Ms. McCue explained that she had talked to Sen. Halligan, sponsor of the bill, and he asked her to draw up further amendments that would eliminate the involvement of the State Fire Marshal and change the bill to state that notwithstanding the exclusion, on the sale or transfer of a residence, the seller shall certify that it has smoke detection equipment. That would be on the RTC and the bill would not have the option of getting a certification from the State Fire Marshal. It would take out the money part of the bill and takes out the entire section regarding the $25 fee.

Sen. Darryl Meyer made a MOTION that the amendment to SB 79 BE ADOPTED and it was seconded by Sen. Thayer. The MOTION PASSED UNANIMOUSLY.

Sen. Cecil Weeding made a MOTION that SB 79 be given a DO PASS AS AMENDED recommendation which was seconded by Sen. Mike Walker. The MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 202: Sen. Cecil Weeding made a MOTION that SB 202 be given a DO PASS recommendation. The Motion was seconded by Sen. Darryl Meyer. The MOTION PASSED with Sen. Paul Boylan and Sen. Ted Neuman Voting "NO".

Chairman Kolstad announced that the committee will not take action on HB 98 until the members have time to further study the bill and proposed amendments. It is the general concensus at this time that it would not be proper to tax just one segment of the mutual insurances.

The next meeting of the Business and Industry Committee will be on Tuesday, February 3, 1987.

There being no further business, Chairman Kolstad adjourned the meeting at 11: 21 a.m.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 1/30/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
DELWYN GAGE		✓	
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

JANUARY 30, 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE BILL No 202

FIRST reading copy (WHITE color)

COMMODITIES INVESTMENTS REGULATED BY SECURITIES COMMISSIONER

Respectfully report as follows: That SENATE BILL No 202

DO PASS

XXXXXXXXX

Kolstad

SENATOR KOLSTAD, Chairman.

BUSINESS & LABOR COMMITTEE

50TH LEGISLATIVE SESSION

1987

Committee Members	District
Rep. Les Kitselman, Chairman	95
Rep. Fred Thomas, Vice Chairman	62
Rep. Bob Bachnini	14
Rep. Ray Brandewie	49
Rep. Jan Brown	46
Rep. Ben Cohen	3
Rep. Jerry Driscoll	92
Rep. William Glaserl	98
Rep. Larry Grinde	30
Rep. Stella Jean Hansen	57
Rep. Tom Jones	4
Rep. Lloyd McCormick	38
Rep. Gerald Nisbet	35
Rep. Bob Pavlovich	70
Rep. Bruce Simon	91
Rep. Clyde Smith	5
Rep. Charles Swysgood	73
Rep. Norm Wallin	78

Secretary

Elsie Sebens-Armstrong

Staff

Paul Verdon

Form CS-32
Rev. 1985

STATUS SHEET

50th LEGISLATIVE SESSION

BUSINESS AND LABOR COMMITTEE

SENATE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
103	2/24/87	3/11/87	3/12/87					3/12/87			
110	2/4/87	3/6/87	3/6/87					3/6/87			
115	2/18/87	3/6/87	tabled 3/6/87								
118	2/11/87	3/10/87	3/17/87							3/17/87	
130	2/11/87	3/5/87	3/5/87							3/5/87	
138	2/18/87	3/6/87	3/6/87							3/6/87	
140	2/11/87	3/4/87	3/4/87					3/4/87			
182	2/11/87	3/5/87	3/5/87					3/5/87			
186	2/11/87	3/10/87	3/13/87							3/13/87	
188	2/24/87	3/10/87	3/10/87					3/10/87			
198	3/3/87	3/17/87	tabled 3/27/87								
202	2/11/87	3/10/87	3/10/87							3/10/87	
205	3/03/87	3/17/87	tabled 3/17/87								
210	3/3/87	3/18/87	3/18/87							3/18/87	

se a separate sheet for Senate Bills, House Bills, and Resolutions.

they agree with the amendments that are the same as their office proposed. She said the second amendment that they want to add, "registered under the act" and "to clients in the state" several times to one section, is redundant as it is covered by the scope section of the act.

Rep. Simon asked what type of registration is needed for the investment representatives who sell securities. Ms. Schulke responded that advisors would be required to be registered as either broker-dealers or securities salesmen with an individual license.

CLOSING

Senator Williams stated this bill would help people that need a financial advisor and are assured that when they call an investment firm, they would get a registered person. He said he recommended that only the amendments presented by the State Auditor's Office be accepted at the present time.

Chairman Kitselman referred Senate Bill No. 186 to a subcommittee composed of Reps. Thomas, Swysgood, and Bachini, with Rep. Thomas as chairman.

SENATE BILL NO. 202 - Commodities Investments Regulated By Securities Commissioner, sponsored by Senator Cecil Weeding, Senate District No. 14, Jordan. Sen. Weeding stated this bill was at the request of the State Auditor's office, which would amend the securities laws to include the trading of commodity contracts and commodity dealers. He said most of the bill addresses defining commodities and dealers, and simplifies and clarifies their enforcement with respect to commodity investment contracts and commodity options.

PROPONENTS

Kim Schulke, Deputy Securities Commissioner, State Auditor's Office. Ms. Schulke presented a section by section review of the legislation and the justification for the amendments to the current statutes. Exhibit No. 4.

OPPONENTS

None.

QUESTIONS

Rep. Swysgood asked Ms. Schulke if the futures in livestock under the CME would be regulated. Ms. Schulke responded

that futures in livestock are not regulated through this legislation because they are regulated on a federal level.

Rep. Brandewie asked Ms. Schulke if the phrase "commodity means except as otherwise specified by rule or order of the committee" wasn't too broad. Ms. Schulke responded the definition of commodity in the legislation is intended to be broad to cover all types of scams that might arise.

Rep. Driscoll asked what the penalty was for the scam artists in this. She added enforcement is accomplished through a cease and desist order, the revocation, suspension, or denial of a party's license, and there are criminal penalties in the legislation to deal with those situations.

CLOSING

Senator Weeding stated that the concern of the broadness of the rule making authority on page 2 did not come up in the Senate. He said the Senate's thought was to put some faith in the Securities Commissioner, but will leave that to the Committee's judgement.

SENATE BILL 118 - Extend Penalties Against Employer Without Workers' Compensation Coverage, sponsored by Senator Mike Halligan. Senator Halligan stated this bill was at the request of the Department of Labor and Industry. He said the Department currently has both criminal and civil authority, but this bill clarifies that the Division of Workers' Compensation may concurrently pursue civil and criminal actions against an uninsured employer.

PROPONENTS

Keith Olson, Executive Director, Montana Logging Association. Mr. Olson stated that uninsured employers do a tremendous disservice, they leave injured employees in a terrible spot, and they have a very significant competitive advantage on those that are in compliance with the law.

Steven Shapiro, Chief Legal Counsel, Workers' Compensation Division. Mr. Shapiro stated the purpose of this bill was to clarify civil and criminal penalties provided in statute and provide that these penalties can be pursued concurrently, which is not clear at the present time.

OPPONENTS

None.

QUESTIONS

Rep. Simon asked Senator Keating if the legislation would read properly with the changing of the words "Commissioner of Labor" and "Director of Commerce" in the appropriate sections. Senator Keating responded that it will.

CLOSING

Senator Keating made no further comments.

EXECUTIVE ACTION

ACTION ON SENATE BILL NO. 188

Rep. Brown moved that Senate Bill No. 188 BE CONCURRED IN. The motion carried unanimously.

Rep. Thomas will carry the bill in the House.

ACTION ON SENATE BILL NO. 118

Rep. Hansen moved Senate Bill No. 118 BE CONCURRED IN.

Rep. Brandewie moved a substitute motion that Senate Bill No. 118 be referred to the Workers' Compensation Subcommittee for consideration of the amendment proposed by Gene Fenderson of making it a felony also for employers that default on workers' compensation.

Chairman Kitselman, seeing no objection from the committee, referred Senate Bill No. 118 to the subcommittee with SB 315. The subcommittee consists of Reps. Glaser, Smith, Grinde, Driscoll, and Nisbet, with Rep. Glaser as chairman.

ACTION SENATE BILL 202

Rep. Driscoll moved Senate Bill No. 202 BE CONCURRED IN.

Rep. Brandewie moved to amend SB 202, page 2, lines 24 - 25, following "means" on line 24, strike the remainder of the lines through "commissioner". The motion carried, with Rep. Hansen and Rep. Cohen opposed.

Rep. Brandewie moved Senate Bill No. 202 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

Rep. Brandewie will carry the legislation in the house.

SENATE BILL 328 - Require Department of Administration to Contract Printing Through Montana Businesses, sponsored by Senator Joseph Mazurek, Senate District No. 23, Helena.

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date MARCH 10, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

CS-30

STANDING COMMITTEE REPORT

MARCH 10 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 202

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN Chairman

AMENDMENT AS FOLLOWS:

1) Page 2, lines 24 and 25
Following: "means" on line 24
Strike: the remainder of line 24 and line 25
through "commissioner"

Rep. Ray Brandewie to sponsor.

THIRD BLUE
reading copy (color)

Kim Schulke
Deputy Securities Commissioner
444-5236

3.10.87
SB 202

SB 202 Commodities investments regulated by securities ~~commissioner~~.

Requested by State Auditor and Commissioner of Securities Andrea "Andy" Bennett

SECTION BY SECTION REVIEW

Section 1. Amendment to 30-10-103, MCA.

This bill amends 30-10-103, MCA, which is the definitional section of the Securities Act of Montana. New subsection (5)(a) contains a definition of "commodity." This is a very broad definition, which is qualified considerably by subsection (5)(b). Subsection (5)(b)(ii) excludes from the definition, real property or timber, agricultural, or livestock product grown or raised on real property and offered and sold by the owner or lessee of such real property. This would prevent the Securities Commissioner from exercising jurisdiction over the farmer or logger.

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New subsection (8)(a) defines "commodity investment contract" as an agreement for the purchase of a commodity, primarily for investment purposes and not for use or consumption by the purchaser.

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New subsection (15) defines "precious metal", which is included in the definition of "commodity."

New subsection (18) sets forth the definition of "security," which is the same as always, except that the terms "commodity investment contract," and "commodity option" are included.

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New subsection (20) provides an exemption for commodity investment contracts entered into between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject to the contract, or any byproduct of the commodity.

Section 3. Extension of authority.

This section provides that the Securities Commissioner may make rules on the subject of this bill.

JUSTIFICATION

The Securities Act of Montana governs the offer and sale of securities in our state. This bill would include commodity investment contracts and commodity options within the definition of "security." All of the provisions of the Securities Act, including the registration and enforcement provisions, would then apply to commodity investment contracts and commodity options.

This bill begins by defining "commodity" in very broad terms. It then narrows that definition considerably by excluding real property or any timber, agricultural or livestock product grown or raised on real property and offered and sold by the farmer or logger.

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While commodity investment contracts are already within the securities commissioner's regulatory authority, the definitions included within this bill will make it easier to enforce the securities laws against those who offer and sell commodity investment contracts in this state.

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. SENATE BILL NO. 202 DATE MARCH 10, 1987

SPONSOR SENATOR CECIL WEEDING

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
T. Kim Felaulter	State Auditor	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FO

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33